

# CHAD M. GONZALES, MD

Ogden Gastroenterology

## ARBITRATION AGREEMENT



OGDEN GASTRO

**Article 1: Agreement to Arbitrate:** We hereby agree to submit to binding arbitration all disputes and claims for damages of any kind for injuries and losses arising from the medical care rendered or which should have been rendered after the date of this Agreement. All claims for monetary damages against the physician, and the physician's partners, associates, association, corporation or partnership, and the employees, agents and estates of any of them (hereinafter collectively referred to as "Physician"), must be arbitrated including, without limitation, claims for personal injury, loss of consortium, wrongful death, emotional distress or punitive damages. We agree that the Physician may pursue a legal action to collect any fee from the patient and doing so shall not waive the Physician's right to compel arbitration of any malpractice claim. However, following the assertion of any malpractice claim against the Physician, any fee dispute, whether or not the subject of any existing legal action shall also be resolved by arbitration.

We expressly intend that this Agreement shall bind all persons whose claims for injuries and losses arise out of medical care rendered or which should have been rendered by Physician after the date of this Agreement, including any spouse or heirs of the patient and any children whether born or unborn at the time of the occurrence giving rise to any claim (hereinafter collectively referred to as "Patient").

**Article 2: Waiver of Right to Trial:** We expressly waive all rights to pursue any legal action to seek damages or any other remedies in a court of law, including the right to a jury or court trial, except to enforce our decision to arbitrate, to collect any arbitration award and to facilitate the arbitration process as permitted by the Utah Arbitration Act.

**Article 3: Procedures and Appointment of Arbitrators:** Patient shall serve Physician by certified mail with a written demand for arbitration which shall specify the nature of the claim, the date of the claimed occurrence, the complained of conduct by the Physician, and a description of the Patient's injuries and damages. Within 60 days after the demand, the parties shall agree upon a neutral arbitrator to be selected from a list of individuals approved as arbitrators by the State of Federal courts of Utah. If the parties cannot agree upon a neutral arbitrator, the court shall select an individual from that list. The neutral arbitrator shall: preside over the arbitration hearing and pre-arbitration conferences; establish scheduling orders; supervise the conduct of discovery to prevent abuse and insure efficiency and cost-effectiveness; rule on all motions, including motions for summary judgment and motions to dismiss for failure to proceed with reasonable diligence; administer oaths; issue subpoenas; and exercise other powers granted to arbitrators in the Utah Arbitration Act. Within six months of the demand for arbitration or as otherwise ordered by the neutral arbitrator, Patient shall select one arbitrator and Physician shall select one arbitrator. Patient and Physician shall pay the fees and expenses of his or her own arbitrator. Each party shall share equally the expenses and fees of the neutral arbitrator. The parties agree that the arbitrators have the immunity of a judicial officer from civil liability when acting in the capacity of an arbitrator under this Agreement.

All claims based on the same occurrence, incident, or care shall be arbitrated in one proceeding; however, Patient or Physician shall have the absolute right to arbitrate separately issues of liability and damage upon written request to the neutral arbitrator. Arbitration hearings will be held in the County of the Physician's principal place of business or elsewhere as the parties may agree.

The parties consent to the participation in this arbitration of any person or entity that would otherwise be a proper additional party in a court action and which agrees to be bound by the arbitration decision. Any existing court action against such additional person or entity shall be stayed upon agreement to participate in the arbitration.

The parties agree that the arbitration proceedings are private, not public, and the privacy of the parties and of the arbitration proceedings shall be preserved.

**Article 4: Applicable Law:** With respect to any matter not herein expressly provided for, the arbitration shall be governed by the Utah Arbitration Act. All provisions of the Utah Health Care Malpractice Act, with the exception of the notice of intent and pre-litigation hearing requirements, which the parties hereby waive, shall apply to the arbitration. The comparative fault provisions of Utah law apply to the arbitration and the arbitrators shall apportion fault to all persons or entities who contributed to the claimed injury whether or not they are parties to the arbitration.

**Article 5: Revocation:** This Agreement may be revoked by written notice mailed to the Physician, by certified mail, within 30 days after signature, and if not revoked shall govern all medical services received by the Patient after the date of this Agreement.

**Article 6: Term:** The term of this Agreement is one year from the date it is signed. It shall be automatically renewed from year to year thereafter unless either party to this Agreement notifies the other of his or her election not to renew in writing delivered by certified mail prior to the renewal date.

**Article 7: Read and Understood:** I (Patient or Patient's representative) have read and I understand the above Agreement which has been verbally explained to me to my satisfaction. I understand that I have the right to have my questions about arbitration answered and I do not have any unanswered questions. I execute this agreement of my own free will and not under any duress, and I understand that my signing this Agreement is not a requirement in order to receive medical services from Physician.

**Article 8: Received Copy:** I have received a copy of this document.

**Article 9: Severability:** If any provision of this Agreement is held invalid or unenforceable, the remaining provisions shall remain in full force and shall not be affected by the invalidity of any other provision.

Chad M. Gonzales, M.D., P.C.

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Name of Physician, Group or Clinic

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Name of Patient (Print)

By:

\_\_\_\_\_  
Signature of Physician or  
Authorized Representative (Date)

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Signature of Patient or Patient's  
Representative (Date)